

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	:	Case No. 05- <u>11985</u> -WWB
	:	(Chapter 13)
ROBERT E. ENNIS	:	Judge Warren W. Bentz
KATHLEEN L. ENNIS	:	
	:	
Debtors.	:	
	:	
ROBERT E. ENNIS	:	Document No.
KATHLEEN L. ENNIS	:	
	:	
	:	
Movants,	:	
	:	
vs.	:	
	:	
COUNTRYWIDE HOME LOANS, INC.	:	
	:	
	:	
Respondent.	:	
	:	
	:	

---

MOTION OF ROBERT E. ENNIS AND KATHLEEN L. ENNIS OBJECTING TO  
THE ALLOWANCE OF THE CLAIM OF COUNTRYWIDE HOME LOANS, INC.  
PURSUANT TO 11 U.S.C. § 502 AND BANKRUPTCY RULE 3007

---

Now come the Debtors, ROBERT E. ENNIS and KATHLEEN L. ENNIS, by  
through counsel, MICHAEL J. GRAML, ESQ., and respectfully represent as  
follows:

1. The Court has jurisdiction of this proceeding pursuant to 28  
U.S.C. § 157(b)(A), (B) and (O) and 28 U.S.C. § 1334 and is a core  
proceeding.

2. This motion is brought pursuant to 11 U.S.C. § 502 and  
Bankruptcy Rule 3007 objecting to the allowance of the claim of  
COUNTRYWIDE HOME LOANS, INC.

3. This case was commenced by the filing on June 16, 2005 of a  
voluntary petition for relief under Chapter 13 of Title 11 of the United  
States Code.

4. On or about July 14, 2005, the Respondent, COUNTRYWIDE HOME LOANS, INC. filed a proof of claim (P.O.C. #1) asserting as party of their claim for pre-petition mortgage arrearage, "Escrow/Impound Advance" in the amount of \$2,233.80. Exhibit "A".

5. Counsel for Debtors attempted to contact Counsel for Countrywide Home Loans, Inc. by letter dated August 3, 2005, to receive an explanation as to the inclusion of this amount in the claim for pre-petition mortgage of COUNTRYWIDE HOME LOANS, INC., but received no response.

6. Pursuant to 41 P.S. § 404, a mortgage lender is entitled to recover from a mortgagee any sums that have arisen under the terms of a residential mortgage obligation which are actually due as a result of any default that has occurred and the exercise of an acceleration clause.

7. According to the proof of claim filed by COUNTRYWIDE HOME LOANS, INC., the post-petition monthly mortgage payment due is \$864.82, comprised of \$530.70 (principal/interest) and \$334.12 (escrow) components.

8. The amount claimed by COUNTRYWIDE HOME LOANS, INC. for "Escrow/Impound Advance" is unreasonable and for amounts already accounted for as part of the escrow component claimed by COUNTRYWIDE HOME LOANS, INC. as part of the post-petition monthly mortgage payment.

WHEREFORE, the Debtors pray that the portion of the claim of COUNTRYWIDE HOME LOANS INC. For "Escrow/Impound Advance" be disallowed in the amount of \$2,233.80 as unreasonable and not having arisen under the terms of a residential mortgage obligation between the parties.

Respectfully submitted,

Dates: August 17, 2005

/S/ MICHAEL J. GRAML  
MICHAEL J. GRAML, ESQ.  
Attorney for Debtors/Movants  
714 Sassafras Street  
Erie, PA 16501  
(814) 459-8288  
PA I.D. No. 50220

IN THE UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF PENNSYLVANIA

IN RE: ) Case No. 05- 11985 -WWB  
 ) (Chapter 13)  
ROBERT E. ENNIS ) Judge Warren W. Bentz  
KATHLEEN L. ENNIS )  
 )  
Debtors. )  
 )

CERTIFICATE OF MAILING OF NOTICE  
OR OTHER DOCUMENT TO PARTIES IN INTEREST

I, the undersigned, certify that I served or caused to be served, on the 17th day of August, 2005, a copy of the above Motion, with attached proposed orders of court, and the Notice of Hearing filed herewith upon each of the following persons and parties in interest at the addresses shown below:

The total number of copies sent was four (4).

Countrywide Home Loans, Inc.  
7105 Corporate Drive  
PTX B-209  
Plano, TX 75024-3632

Office of the U.S. Trustee  
Liberty Center, Suite 970  
1001 Liberty Avenue  
Pittsburgh, PA 15222

Rhonda J. Winnecour, Esq.  
Chapter 13 Trustee  
USX Tower, Suite 3250  
600 Grant Street  
Pittsburgh, PA 15219

Leslie E. Puida, Esq.  
Suite 5000-Mellon Independence Ctr.  
701 Market Street  
Philadelphia, PA 19106-1532

EXECUTED ON:

August 17, 2005

/S/ MICHAEL J. GRAML  
MICHAEL J. GRAML, ESQ.  
Attorney for Movants  
714 Sassafras Street  
Erie, PA 16501  
(814) 459-8288  
PA I.D. No. 50220